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ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

No. 93A02-1105-EX-421

Appellees-Defendants.

MEMORANDUM DECISION – NOT FOR PUBLICATION

BAKER, Judge

Appellant-petitioner Rissie Green appeals the decision of the Indiana Department of Workforce Development Review Board (Review Board) affirming the Administrative Law Judge's (ALJ) decision to dismiss her appeal as untimely. Finding no error, we affirm.

FACTS

On March 15, 2011, a claims deputy of the Indiana Department of Workforce Development (DWD) determined that Green was not eligible for unemployment benefits because she was discharged for just cause, namely because Green was willfully negligent or careless in performance.

On March 30, 2011, Green filed her appeal of that determination by faxing her appeal letter to the Appellate Division. On April 1, 2011, the ALJ dismissed her appeal for lack of jurisdiction upon finding that she had filed the appeal after the statutorily mandated thirteen-day time period. Appellant's App. p. 19.

On April 11, 2011, Green appealed the decision of the ALJ to the Review Board of the DWD. In that appeal, she stated that "I did not understand the letter that I only had thirteen days to fill [sic] the appeal." Appellant's App. p. 9.

On April 14, 2011, the Review Board issued its decision affirming the ALJ's dismissal for lack of jurisdiction. It adopted and incorporated into its decision the findings of fact and conclusions of law of the ALJ. Also, it did not hold a hearing on the matter or accept any additional evidence. Green now appeals.

DISCUSSION AND DECISION

Green argues that the Review Board erred when it affirmed the decision of the ALJ dismissing her appeal as untimely. At the same time, she admits that her appeal was untimely. Appellant's Br. p. 5.

The time period for perfecting an appeal from a determination of eligibility is ten days. Ind. Code § 22-4-17-2(i). In addition, claimants have three additional days if notice is served through the United States mail. Indiana Code § 22-4-17-14(c). It is well settled that when a statute contains a requirement that an appeal or notice of the intention to appeal shall be filed within a certain time, strict compliance with the requirement is a condition precedent to acquiring jurisdiction, and non-compliance results in dismissal on appeal. Quakenbush v. Review Bd. of Ind. Dep't. of Workforce Dev., 891 N.E.2d 1051, 1053 (Ind. Ct. App. 2008).

The record in this case shows that the claim deputy's decision was mailed on March 15, 2011. Thus, Green's appeal to the ALJ was due on March 28, 2011, but she did not fax her appeal until March 30, 2011. Due to her untimely appeal, the ALJ did not have jurisdiction to review the claims deputy's decision. Therefore, we find that the Review Board properly affirmed the decision of the ALJ dismissing Green's appeal for lack of jurisdiction.

The decision of the Review Board is affirmed.

KIRSCH, J., and BROWN, J., concur.